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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,286	12/30/2003	Madeline T. Facer	MTF-001	9831
3897	7590	05/27/2004	EXAMINER	
SCHNECK & SCHNECK P.O. BOX 2-E SAN JOSE, CA 95109-0005			BOEHLER, ANNE MARIE M	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,286

Applicant(s)

FACER ET AL.

Examiner

Anne Marie M Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,5-19,23-26 and 28-31 is/are rejected.
- 7) ☒ Claim(s) 2-4,20-22 and 27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/13/04
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____

DETAILED ACTION

1. Claims 9, 10, 30, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, "like" is an indefinite term.

In claim 10, "the lesser length and greater length sections" lack clear antecedent basis in the claims.

In claims 30 and 31, "said cam" lacks clear antecedent basis in the claim (no cam is recited in claim 29).

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the six-sided cam, recited in claim 31, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5-7, 10-11, 14-19, 23-26, and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Lemarie.

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Lemarie shows a drive for a wheelchair having first and second discs 25 flanking the large rear drive wheels 24. A lever 17 is rotatable about a lever pivot axis 19 and is rotatable, with the drive assembly, about the axle of the large wheel axis via arms 11. A cam 16 rotates with the lever arm between a contact position and a non-contact position. A shoe (16, opposite the cam) engages the disc on the opposite side of the wheel from the cam to sandwich the wheel therebetween. The cam includes a greater length section (that contacts the disc) and a lesser length section (that connects the greater length section to the lever 17), as broadly recited.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8, 9, 12, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemarie.

Lemarie is silent regarding the shape and material of the cam and discs. However, it would have been obvious to one of ordinary skill in the art to make the cam and discs out of plastic, which is a common material for vehicle components, in order to manufacture the assembly inexpensively and having a light weight. It would also have been an obvious design choice to one of ordinary skill in the art to make the cam having a cylindrical, rectangular or another polygonal shape, in order to accommodate design requirements.

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7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemarie in view of Barroza.

Lemarie is silent regarding the material for the shoe.

Barroza shows a lever drive for a wheelchair including a shoe 19 made from rubber.

It would have been obvious to one of ordinary skill in the art to make the drive shoes out of rubber, as taught by Barroza, in order to provide adequate grip.

8. Claims 2-4, 20-22 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bulmer, Good, Garfinkle, Petersen, Ronald and Meyer show lever drive wheelchairs.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M Boehler whose telephone number is 703-308-0422. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

amb 5/20/04

Anne Marie M Boehler
Primary Examiner
Art Unit 3611

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